

**OBJECTION DEADLINE: February 10, 2016 at 5:00 p.m. (Eastern Time)**  
**HEARING DATE/TIME: February 17, 2016, at 2:00 p.m. (Eastern Time)**

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
By: DAVID S. JONES  
Assistant United States Attorney  
86 Chambers Street, Third Floor  
New York, New York 10007  
Telephone: (212) 637-2739  
Facsimile: (212) 637-2730

Attorney for United States of America

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re</b>	:	<b>Chapter 11</b>
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<b>MOTORS LIQUIDATION COMPANY, <i>et al.</i>,</b>	:	<b>Case No. 09-50026 (MG)</b>
<b>f/k/a General Motors Corp., <i>et al.</i></b>	:	
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
	:	
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**MOTION OF UNITED STATES OF AMERICA FOR AN ORDER APPROVING  
RE-APPOINTMENT OF EPLET, LLC TO A SECOND TERM AS ADMINISTRATIVE  
TRUSTEE OF THE ENVIRONMENTAL RESPONSE TRUST**

TO THE HONORABLE MARTIN GLENN,  
UNITED STATES BANKRUPTCY JUDGE:

The United States hereby respectfully moves this Court for re-appointment of  
EPLET, LLC, by and through Elliott P. Laws, Esq., as Administrative Trustee of the Revitalizing  
Auto Communities Environmental Response Trust (“**RACER**”), which is charged with carrying  
out needed environmental actions at certain properties formerly owned by Debtor Motors  
Liquidation Company (f/k/a General Motors Corporation, hereafter, “**MLC**”), and its affiliated  
debtors, (collectively, the “**Debtors**”). The United States respectfully represents:

### **Relief Requested and Relevant Background**

1. The United States moves pursuant to section 105(a) of title 11, United States Code (the “**Bankruptcy Code**”), 11 U.S.C. § 105(a), for approval of the re-appointment to a second five-year term of EPLET, LLC, as Administrative Trustee of RACER, without modification of the now-governing terms and conditions set forth in the governing settlement and trust agreements.

2. The RACER Trust was created through the confirmed Plan of Liquidation in this matter and an annexed consent decree and settlement agreement (the “**Settlement Agreement**” or “**ERT CD**”) by and between the United States of America (the “**United States**”), the since-liquidated Debtors, 14 signatory states (the “**States**”), and the St. Regis Mohawk Tribe (the “**Tribe**”), which among other things created RACER, transferred to it title to approximately 89 previously Debtor-owned properties, many of which required environmental cleanup response actions, funded RACER, and charged RACER with, in essence, owning, cleaning up, and selling or otherwise repurposing those properties for beneficial use. *See* Dkt. No. 9941 (findings of fact, conclusions of law, and order confirming debtors’ plan of liquidation) at 19 ¶ 7 (approving settlement that led to the creation of RACER, and approving and appointing EPLET, LLC as RACER’s Administrative Trustee). Similar environmental response trusts have been created in a number of bankruptcies to provide for cleanup of contaminated properties of liquidating debtors; RACER is one of the largest such trusts created. At its inception, RACER was funded with approximately \$499 million for use in carrying out needed environmental actions, as well as with substantial additional funds to support the trust’s administration. The ERT CD as approved by the Court is Exhibit C to the confirmed Plan of Liquidation, and appears beginning at PDF page 283 of 888 in the as-docketed copy of Docket Entry 9941 that is available at [www.motorsliquidationdocket.com](http://www.motorsliquidationdocket.com) as well as on the Court’s official docket. The United

States is RACER's beneficiary, ERT CD ¶ 38 (Dkt. No. 9941 Ex. C), and the United States, the States, and the Tribe have rights and powers as set forth in the Settlement Agreement and RACER's governing Trust Agreement. *Id.* ¶ 39.

3. In accordance with Paragraph 7 of the confirmation order (Dkt. No. 9941) and Paragraph 42 of the ERT CD, EPLET, LLC, "not individually but solely in its representative capacity," was appointed as Administrative Trustee of RACER, "by and through Elliott Laws, not individually but solely in his representative capacity as president, manager or managing member of the Administrative Trustee." ERT CD ¶ 42. The ERT CD specifies that "The term of the Administrative Trustee shall be for five years at which time the Administrative Trustee may be re-appointed or terminated by the Bankruptcy Court upon recommendation by the United States after consultation with the States and Tribe." *Id.*

4. EPLET, LLC, by and through Elliott Laws, has served as RACER's Administrative Trustee since RACER formally commenced operations on the confirmed Plan's effective date, March 31, 2011. EPLET's initial five-year term is scheduled to expire on March 31, 2016, and EPLET has notified the United States that it wishes to be re-appointed to a second five-year term as Administrative Trustee. After having consulted with the States and Tribe as required by the ERT CD and as detailed below, the United States strongly supports the requested re-appointment, and respectfully recommends and requests that the Court re-appoint EPLET, LLC for a second five-year term by approving and entering the proposed order that is annexed hereto.

### **Jurisdiction**

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper

before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. Moreover, the Court-approved ERT CD specifically provides that the Court “shall retain jurisdiction over both the subject matter of this Settlement Agreement and the parties hereto, for the duration of the performance of the terms and provisions of this Settlement Agreement for the purpose of enabling any of the parties to apply to the Bankruptcy Court at any time for such further order . . . as may be necessary or appropriate . . . to effectuate or enforce compliance with its terms.” ERT CD (Dkt. No. 9941 Ex. C) ¶ 110.

### **Consultations and Recommendation of United States**

6. The United States Environmental Protection Agency (“**EPA**”), as well as the Department of the Treasury (“**Treasury**”), which was the main debtor-in-possession lender of Debtors, have had substantial interaction with RACER and its personnel throughout the Trust’s operation, as have Justice Department attorneys in Washington D.C. and New York. Representatives of all three agencies participated in consultations with the States and Tribe about the proposed re-appointment of EPLET, LLC.

7. Specifically, pursuant to paragraph 42 of the ERT CD, on November 6, 2015, the United States emailed representatives of the ERT CD signatory States and Tribe as follows: “[W]e solicit your views concerning the possible re-appointment, and also welcome any questions or requests for additional information that you may have. We would like to hold a conference call at 4 PM on Monday, November 16, [2015], to discuss the matter with you. I [*i.e.*, AUSA David Jones] and other federal team members are also generally available for less formal individual calls.”

8. Following this initial solicitation of views, the United States conducted three conference calls to which the States and Tribe were invited, on November 16, December 4,

and December 9, 2015. The United States also provided pertinent information that RACER provided before this series of calls began, and, in response to questions raised during these conference calls and/or in separate related communications, the United States sought, obtained, and relayed additional information from RACER, including detailed information concerning RACER's finances and the long-term sufficiency of its administrative funding. Representatives of the Tribe and at least nine signatory States (KS, MA, MI, MO, NJ, NY, OH, VA, and WI) participated in one or more of the conference calls. The parties to the conference calls agreed that the discussions would be confidential.

9. The United States strongly recommends and requests the re-appointment of Mr. Laws and EPLET, LLC as Administrative Trustee for a second five-year term. *First*, the United States is pleased with the Trust's performance, and believes that much of this success is attributable to Mr. Laws' leadership and personal contributions. The United States believes it would be disruptive, risky, inefficient and therefore costly, and potentially harmful to the Trust's performance of its mission to replace EPLET, LLC, and thus Mr. Laws, with a new, untested trustee. *Second*, the Trust has a solid track record of responsiveness and sincere commitment to effectively advance Trust purposes and the public interest, and we believe that the Trust will continue to do so under Mr. Laws' leadership. *Third*, the United States is not aware of any valid reason not to re-appoint the Administrative Trustee. *Fourth*, the United States is satisfied that the Trust's administrative funding levels are sufficient to facilitate its discharge of its obligations overall, and that Mr. Laws' compensation as provided for by the ERT CD and subject to annual federal budgetary review remains appropriate.

**The Relief Requested Should Be Approved by the Court**

10. The ERT CD provides that the Court may re-appoint the Administrative Trustee upon recommendation by the United States after consultation with the signatory States and Tribe. As shown above, the required consultations have occurred, and the United States strongly recommends the requested re-appointment for the reasons summarized above.

**Notice**

11. This Motion has been served with notice that satisfies all applicable rules.

**No Prior Request**

12. No prior request for the relief sought in this Motion has been made to this or any other Court.

WHEREFORE, the United States respectfully requests entry of an order granting the relief requested herein and such other and further relief as is just.

Dated: New York, New York  
February 1, 2016

PREET BHARARA  
United States Attorney for the  
Southern District of New York

By: s/David S. Jones  
DAVID S. JONES  
Assistant United States Attorney  
86 Chambers Street, Third Floor  
New York, NY 10007  
Tel: 212-637-2739  
Fax: 212 637 2730  
[David.jones6@usdoj.gov](mailto:David.jones6@usdoj.gov)

Attorney for the United States

**UNITED STATES BANKRUPTCY COURT  
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<b>MOTORS LIQUIDATION COMPANY, <i>et al.</i>,</b>	:
<b>f/k/a General Motors Corp., <i>et al.</i></b>	:
	:
<b>Debtors.</b>	:
	:
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**Chapter 11 Case No.**

**09-50026 (MG)**

**(Jointly Administered)**

**ORDER RE-APPOINTING EPLET, LLC, AS ADMINISTRATIVE TRUSTEE OF THE  
REVITALIZING AUTO COMMUNITIES ENVIRONMENTAL RESPONSE (“RACER”)  
TRUST TO A SECOND FIVE-YEAR TERM THROUGH AND INCLUDING MARCH  
31, 2021**

Upon the Motion, dated February 1, 2016 (the “**Motion**”),<sup>1</sup> of the United States of America, pursuant to section 105(a) of title 11, United States Code (the “**Bankruptcy Code**”), for entry of an order pursuant to paragraph 42 of the Environmental Response Trust and Consent Decree, Dkt. No. 9941, Ex. C, as more fully described in the Motion; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Motion is in the best interests of all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted and EPLET, LLC, is hereby re-appointed to a second five-year term as Administrative Trustee of RACER, through and including March 31, 2021; and it is

ORDERED that this Court shall retain jurisdiction to hear and determine all

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<sup>1</sup> Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

matters arising from or related to this Order.

Dated: New York, New York  
\_\_\_\_\_, 2016

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UNITED STATES BANKRUPTCY JUDGE